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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,350	11/28/2001	Andrew Richardson	0275S-000542	1955

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EXAMINER

PAYER, HWEI SIU CHOU

ART UNIT PAPER NUMBER

3724

DATE MAILED: 04/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/996,350

Applicant(s)

RICHARDSON ET AL. *MF*

Examiner

Hwei-Siu C. Payer

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-8, 12, 14 and 18-23 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 9-11, 13 and 15-17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other: ____

Detailed Action

Defective Oath or Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because the prior foreign application serial No. GB 0030456.8 and its filing date are missing from the declaration.

Drawings Objection

The drawings are objected to because:

In Figs.2 and 3, reference numeral "176" has not been described in the specification.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Objection to the Specification

The disclosure is objected to because of the following informalities:

(1) Reference numeral "174" has been given two designations as "semi-circular edge" (on page 8) and "threaded aperture" (on page 13).

(2) On page 18, reference "304" is not found in any drawings.

Appropriate correction is required.

Claims Objection

Claims 10 and 11 are objected to because of the following informalities:

In claim 10, line 3, "[the]" should be deleted.

Appropriate correction is required.

Claims Rejection - 35 U.S.C. 112, second paragraph

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12 and 18-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(1) In claim 12, "the guard surrounds at least part or all of the barrier" is incorrect. The phrase should read --the barrier surrounds at least part of all of the guard--.

(2) The scope of claims 18, 22 and 23 is confusing. As the disclosed invention is understood, the barrier (i.e. the plant protector 20) does not comprise an elongate shaft, a cutting head and a cutting member as now claimed.

(3) The scope of claims 19-21 is confusing. While their dependent claims are directed to a string trimmer, claims 19-21 are directed to a barrier. It is unclear as to the scope of the invention.

Claims Rejection - 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6-8, 12, 14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Powell (U.S. Patent No. 4,872,265).

Powell shows (Fig.1) the claimed invention.

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6, 7, 9, 14, 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morita (U.S. Patent No. 4,756,084) in view of Ryan (U.S. Patent No. 5,048,187).

Morita shows the claimed invention except the barrier (29) does not pivot above a path swept out by the cutting member (27), and the number of predetermined angular positions is five (defined by the five holes 73, see Fig.2 and column 3, lines 35-40) rather than the claimed six.

Ryan shows a string trimmer comprising a barrier (8) that is pivotable above a path swept out by a cutting member (22) or projects rearwardly from the string trimmer (see Fig.2).

It would have been obvious to one skilled in the art to modify Morita by having the barrier (29) pivot to a position above a path swept out by the cutting member (27) or projects rearwardly from the string trimmer in order to maintain shrubs that are in an overhead position out of contact away from the cutting member (27) as taught by Ryan.

The claimed six predetermined angular positions is not patentably distinct over Morita's five predetermined angular positions because the exact number of predetermined angular positions depends more upon the preference of the manufacturer than on any inventive concept.

Indication of Allowable Subject Matter

1. Claims 4, 5, 10, 11, 13, 16 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. Claims 19-23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Prior Art Citations

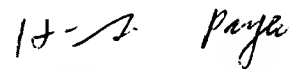
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nilsson, Whitkop, Dolin, Ezell and Watkins, Sr. are cited as art of interest.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 703-308-1405. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for official communications and 703-746-3293 for proposed amendments.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



**Hwei-Siu Payer
Primary Examiner**

H Payer
March 27, 2003